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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,442	10/28/2003	Yasuhiko Masuda	032065	8925

38834 7590 08/04/2005

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WASHINGTON, DC 20036

EXAMINER

LE, DANH C

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,442

Applicant(s)

MASUDA, YASUHIKO

Examiner

DANH C. LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US20010001763).**

As to claim 1, Ito teaches a wireless communication device performing (figure 1) wireless communications with other devices, comprising:

- communication unit (9) used for performing the wireless communications;
- a communication control unit controlling (12) said communication unit on the basis of a predetermined communication condition;
- a position information (5) acquiring unit recognizing a present position;
- communication condition determining unit (8) determining a communication condition corresponding to position information acquired by said position information acquiring unit; and
- condition setting unit setting (11), said communication control unit, the communication condition determined by said communication condition determining unit.

Art Unit: 2683

As to claim 2, Ito teaches a wireless communication device according to claim 1, wherein said position information acquiring unit acquires the position information by receiving radio waves from a GPS (Global Positioning System) satellite (6).

As to claim 3, Ito teaches a wireless communication device according to claim 1, wherein said communication condition determining unit determines at least one of the number of channels, a time zone, an ID and a password as the communication condition (paragraph 0051).

As to claim 4, Ito teaches a wireless communication device according to claim 1, wherein said communication condition determining unit detects, based on the position information, a country in which said device is utilized, selects the time zone of this country as the communication condition suited to this country, and determines a local time of this country on the basis of the selected time zone (paragraph 0036).

As to claim 7, Ito teaches a wireless communication method in a wireless communication device performing wireless communications with other devices (figure 1), comprising:

- recognizing a present position;

- determining a communication condition corresponding to position information of the recognized position;

- setting the communication condition in communication control unit of said wireless communication device; and

- performing the wireless communications on the basis of the communication condition.

As to claim 8, the claim is a software program of claim 7; therefore, the claim is interpreted and rejected as set as claim 7.

As to claim 9, the claim is an apparatus of claim 7; therefore, the claim is interpreted and rejected as set as claim 7.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito.**

As to claim 6, Ito teaches a wireless communication device according to claim 1, fails to teaches said condition setting unit sets the communication condition the communications are started since a power source of said wireless communication device has been switched ON. However, the examiner takes Official Notice that the condition setting unit sets the communication condition the communications are started since a power source of said wireless communication device has been switched ON is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of recited limitation into the system of Ito in order to detect the location of the portable device.

***Allowable Subject Matter***

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 5, Ito fails to teach the communication condition determining unit detects based on the position information, a country in which said device is utilized, and sets an upper limit of the number of channels provided in this country as the communication condition suited to this country.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Minnick et al (US 2003/0144018) teaches multiple channel communication system.

B. Eaton et al (US 2002/0081974) teaches method and apparatus for providing additional information to a selective call device about a broadcast.

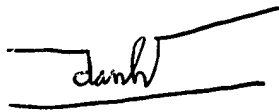
C. Fomukong (US 2003/0194993) teaches location report satellite paging system with optional blocking of location reporting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

Art Unit: 2683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Danh', is written over a horizontal line.

July 31, 2005.

DANH CONG LE  
PATENT EXAMINER